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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Andorra, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Cambodia

The General Assembly,

Recalling its resolutions 57/225 and 57/228 A of 18 December 2002 and 57/228 B of 13 May 2003, Commission on Human Rights resolution 2003/79 of 25 April 2003[1] and previous relevant resolutions,

Recalling also the decision of the Commission on Human Rights, in its resolution 2003/79, to request a report to the Commission at its sixtieth session on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia, and to continue its consideration of the situation of human rights in Cambodia at its sixtieth session,

Recognizing that the tragic history of Cambodia requires special measures to ensure the protection of the human rights of all people in Cambodia and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,[2]

[1] See *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.
[2] A/46/608-S/23177.

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I. Support of and cooperation with the United Nations

1. *Requests* the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources for the continued functioning of the operational presence of the office and to enable the Special Representative to continue to fulfil his tasks expeditiously;

2. *Welcomes* the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights,[3] the report of the Special Representative of the Secretary-General for human rights in Cambodia[4] and the use of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia to finance the programme of activities of the office, and invites the international community to consider contributing to the Trust Fund;

3. *Encourages* the Government of Cambodia to continue to cooperate with the office and other United Nations agencies in their joint efforts to promote human rights and to implement in full their obligations under international human rights treaties and instruments;

II. The role of non-governmental organizations

Commends the vital role played by non-governmental organizations in Cambodia, inter alia, in human rights education and training and in the development of civil society, and encourages the Government of Cambodia to continue to ensure the protection of those human rights organizations and their members and to continue to work closely and cooperatively with them;

III. Administrative, legislative and judicial reform

1. *Welcomes* the progress achieved by the Government of Cambodia in the administration of national elections in July 2003 in a generally free and peaceful atmosphere and in improved access for political parties to the public service media, and urges the Government to investigate fully incidents of intimidation, violence, killings and vote-buying, to prosecute those responsible, to strengthen the enforcement capacity and independence of the National Election Committee and to build on the improvements achieved so as to further consolidate the process of democratization;

2. *Notes with concern* the continued problems relating to the rule of law and the functioning of the judiciary resulting from, inter alia, corruption and interference by the executive with the independence of the judiciary, urges the Government to expedite the implementation of legal and judicial reform as a matter of priority, including finalization without further delay of the adoption of the laws and codes that are essential components of the basic legal framework, in particular a law on the organization and functioning of adjudicate courts, and to ensure the independence,

[3] A/58/268.

[4] See A/58/317.

impartiality and effectiveness of the Supreme Council of the Magistracy and of the judicial system as a whole;

3. *Welcomes* the drafts of the civil code, code of civil procedure, penal code, code of criminal procedure, anti-corruption law, law on the status of judges and prosecutors (statute of magistracy), draft law to amend the Law on the Organization and Functioning of the Supreme Council of the Magistracy, strategy for legal and judicial reform and action plan for its implementation, urges the Government to continue to enhance the training of judges and lawyers through the Royal School for Training Judges and Prosecutors and the Centre for Lawyer Training and Legal Professional Improvement of the Bar Association of the Kingdom of Cambodia, and encourages the Government to provide access to justice for all and establish a legal aid scheme appropriate for Cambodia;

4. *Welcomes also* the adoption of the subdecree on land concessions for social purposes, and urges the Government of Cambodia to strengthen its efforts to tackle the problems related to land rights by, inter alia, adopting the subdecrees on land concessions for economic purposes and on procedures for the reduction of and specific exemptions from the land concessions that exceed 10,000 hectares, enhancing transparency and giving high priority to the land management and administration reform project, and to continue to undertake a review of land concession contracts and their implementation, and notes with concern the remaining problems of land-grabbing, forced evictions and further displacement;

5. *Encourages* further efforts by the Government of Cambodia to implement expeditiously and effectively its reform programme, including the Governance Action Plan and police and military reforms, inter alia, the demobilization programme;

6. *Welcomes* the progress made by the Government of Cambodia to eradicate anti-personnel landmines and to reduce the number of small arms in Cambodia, and encourages the continuing efforts of the Government and the international community to tackle these issues;

7. *Expresses serious concern* that the situation of impunity still exists in Cambodia, recognizes efforts and actions by the Government of Cambodia to prosecute perpetrators of violations, and calls upon the Government, as a matter of critical priority, to increase its efforts to investigate urgently and to prosecute, in accordance with due process of law and international human rights standards, all those who have perpetrated serious crimes, including violations of human rights;

8. *Notes with serious concern* the prison conditions in Cambodia, notes with interest some important efforts to improve the prison system, recommends the continuation of international assistance to improve the material conditions of detention, and calls upon the Government of Cambodia to take further measures to improve the conditions of detention, including reviewing sentencing policy and developing non-custodial options as an alternative to imprisonment, to prevent any form of torture, to provide proper food and health care to prisoners and detainees, to meet the special needs of women and children and to restore access to prisons and inmates for lawyers, family members and human rights organizations in accordance with relevant regulations in force;

IV. Human rights violations and violence

1. *Expresses grave concern* about the continued violations of human rights, including torture, excessive pre-trial detention, violation of labour rights, forced evictions and political violence, including the killings of political activists, involvement by police and military personnel in violence and the apparent lack of protection from mob killings, notes that some progress has been made by the Government of Cambodia in addressing these issues, and urges the Government to take all necessary measures to prevent such violations, including to consider establishing a board of inquiry on the issue of mob killings;

2. *Urges* the Government of Cambodia to take all steps to combat discrimination in all its manifestations and prevent violence against members of any racial or ethnic group and to protect the human rights and fundamental freedoms of all persons, as well as to meet its obligations as a party to the International Convention on the Elimination of All Forms of Racial Discrimination,[5] inter alia, by seeking technical assistance;

V. Khmer Rouge Tribunal

1. *Reaffirms* that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge, and acknowledges that the final collapse of the Khmer Rouge and the continued efforts of the Government of Cambodia have provided the basis for the restoration of peace and stability with the aim of achieving national reconciliation in Cambodia and the investigation and prosecution of senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom and international conventions recognized by Cambodia that were committed during the period from 17 April 1975 and 6 January 1979;

2. *Welcomes* the Agreement reached on 6 June 2003 between the United Nations and the Government of Cambodia to set up Extraordinary Chambers exercising their jurisdiction in accordance with international standards of justice, fairness and due process as set out in article 12 of the Agreement, urges the Secretary-General and the Government of Cambodia to take all the measures necessary for the early establishment of the Extraordinary Chambers, and appeals to the international community to provide assistance, including financial and personnel support to the Extraordinary Chambers, in accordance with General Assembly resolution 57/228 B;

VI. Protection of women and children

1. *Welcomes* the efforts and progress made to improve the status of women, including on the draft law on prevention of domestic violence and protection of victims of domestic violence, and urges the Government of Cambodia to take further measures to combat violence against women in all its forms, including sexual violence, and to take all steps to meet its obligations as a party to the Convention on

[5] Resolution 2106 A (XX), annex.

the Elimination of All Forms of Discrimination against Women,[6] including by seeking technical assistance;

2. *Commends* the Government of Cambodia for its efforts to impede the spread of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS), and encourages it to continue to focus on the problem;

3. *Welcomes* the series of efforts made by the Government of Cambodia to combat human trafficking, including on the draft anti-trafficking law, while noting with serious concern the growth of human trafficking and sexual exploitation of women and children internationally, and requests the Government and the international community to strengthen their concerted efforts comprehensively to address these problems;

4. *Notes with serious concern* the problem of child labour in its worst forms, calls upon the Government of Cambodia to take immediate and effective measures to protect children from economic exploitation and from performing any work that is likely to be hazardous, to interfere with their education or to be harmful to their health, safety or morals, by enforcing Cambodian laws on child labour, the existing Labour Law and anti-trafficking law provisions on behalf of children and by prosecuting those who violate these laws, invites the International Labour Organization to continue to extend the necessary assistance in this regard, and encourages the Government to consider ratifying the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182);

5. *Welcomes* the increased budget allocation in the areas of education and health, and encourages their timely disbursement and the efforts of the Government of Cambodia to improve further the health conditions of children and their access to education, to promote free and accessible birth registration and to establish a juvenile justice system;

VII. Conclusion

Invites the international community to assist the Government of Cambodia in its efforts to implement the present resolution.

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[6] Resolution 34/180, annex.